

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)

Telephone Company-Cable Television)
Cross Ownership Rules,)
Sections 63.54-63.58)

and)

Amendments of Parts 32, 36, 61,)
64, and 69 of the Commission's)
Rules to Establish and Implement)
Regulatory Procedures for)
Video Dialtone Service)

CC Docket No. 87-266

DOCKET FILE COPY ORIGINAL

RM-8221

REPLY OF THE INDEPENDENT DATA COMMUNICATIONS
MANUFACTURERS ASSOCIATION, INC.

The Independent Data Communications Manufacturers Association, Inc.

("IDCMA"), by its attorneys, hereby replies to the comments that were filed in the above-captioned proceeding on December 16, 1994.

IDCMA specifically replies to an assertion by AT&T that it may be necessary to change the Commission's customer premise equipment ("CPE") rules as they apply to video dialtone service.¹ AT&T notes, accurately, that set-top devices that may be used in connection with some video dialtone service are located on customer premises and, under the CPE rules, must be offered on an untariffed, unbundled basis under the CPE rules.² AT&T

¹ AT&T Corp. Comments at 5 n.2.

² See 47 C.F.R. § 64.702(e) (1993).

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then concludes, without explanation, that the viability of video dialtone service could be affected by the inability of the service provider to bundle set-top devices with video dialtone service.³ IDCMA strongly disagrees.

The Commission's CPE rules, which require the unbundled and unregulated provisioning of CPE and the disclosure of network interface information to permit interoperation of CPE and the network, are the bedrock of the Commission's pro-competitive CPE policy. The CPE rules have fostered a robust CPE market. The benefits to consumers have been numerous: lower prices, increased quality, increased choice, new and innovative technology, and a flourishing export market. The rules also promote "inter-modal competition" between network-based and equipment-based solutions to consumers' communications needs. The Commission recently acknowledged the importance of its CPE rules.

The underlying rationale for the Commission's procompetitive CPE policies and rules remains as valid today as it was during the Computer II Decisions. The classification of user-providable equipment as unregulated CPE has benefitted data communications network users in numerous way. The resulting increased competition among manufacturers has driven improvements in equipment quality, lowered CPE prices, and improved the performance of users' data communications networks. These policies have also created new job opportunities in several related sectors of the economy.⁴

The CPE rules will bring the benefits of competition to video dialtone subscribers, just as they have benefitted voice and data communications and service users.

³ AT&T Comments at 5 n.2.

⁴ NYNEX Telephone Companies, Tariff F.C.C. No. 1, Transmittal No. 127, 9 FCC Rcd 1608, 1608 (1994)

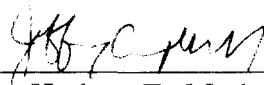
The elimination of the CPE rules would allow the cross-subsidization of CPE when provided by local exchange carriers ("LECs"). Under the Joint Cost Order,⁵ LECs must separate costs for regulated and unregulated activities. These rules were instituted to make it difficult for LECs to use revenue for monopoly local exchange service to cross-subsidize competitive activities, such as CPE provisioning, by keeping those costs outside of the carriers' regulated accounts. If the CPE rules do not apply, these costs will be placed back in the regulated accounts thereby facilitating cross-subsidization. This would eliminate fair and effective competition in video dialtone CPE.

⁵ Separation of Costs of Regulated Telephone Service from Costs of Non-Regulated Activities 2 FCC Rcd 1298 (1987), recon. 2 FCC Rcd 6283 (1987), further recon. 3 FCC Rcd 6701 (1988).

AT&T presents no rationale for a change in video dialtone CPE rules. IDCMA can see no reason why the Commission should foreclose competition in the provision of video dialtone CPE. The Commission, therefore, should not entertain AT&T's suggestion.

Respectfully submitted,

INDEPENDENT DATA COMMUNICATIONS
MANUFACTURERS ASSOCIATION, INC.

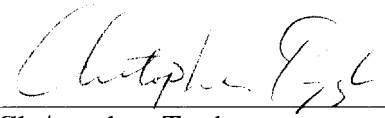
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January 17, 1995

CERTIFICATE OF SERVICE

I, Christopher Tygh, do hereby certify that copies of the foregoing Reply of the Independent Data Communications Manufacturers Association, Inc., in Docket No. 87-266 and RM-8221, were sent via first class mail, postage paid, to the following on this 17th day of January, 1995:



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